

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RONDAL HOWARD MACKS, :
AIS 220315,

:

Petitioner,

:

vs. CA 06-0871-KD-C

:

GWENDOLYN MOSLEY,

:

Respondent.

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated June 27, 2007 is **ADOPTED** as the opinion of this Court with the following amendment to the last parenthetical section of the second sentence of paragraph 5 at page 12, which shall read as follows:

Mack's convictions decidedly became final on July 31, 2002, (i.e. 90 days after May 2, 2002, the date upon which Mack's time period to petition for rehearing in the Court of Criminal Appeals expired which was fourteen (14) days after April 18, 2002, the date that his notice of appeal was dismissed as untimely. See Rule 41(c) of the Alabama Rules of Appellate Procedure ("An application for rehearing . . . must be filed with the clerk of the appropriate appellate court within 14 days (2 weeks) of the date the decision being questioned is issued"), and, therefore, absent tolling, he had one year, or through July

31, 2003, in which to file an application for writ of habeas corpus.”

Therefore, it is **ORDERED** that petitioner’s petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 be dismissed as time barred pursuant to 28 U.S.C. § 2244(d).

DONE this 26th day of July, 2007.

s/ Kristi K. DuBose
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE